STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	**Enrolled**	Bill No:	**SB 849**
Tax:	**Oil Spill Prevention and Administration**	Author:	**Torlakson**
Board Position:	**Neutral**	Related Bills:	**AB 2083 (Jackson)**

This analysis will only address the bill's provisions which impact the Board.

BILL SUMMARY

Among other things, this bill would increase the amount of the annual assessment of the Oil Spill Prevention and Administration Fee the administrator[1] is authorized to impose from four cents ($0.04) to five cents ($0.05) per barrel of crude oil or petroleum products.

ANALYSIS

Current Law

Under existing law, Section 8670.40 of the Government Code requires the State Board of Equalization (Board) to collect the Oil Spill Prevention and Administration Fee in an amount determined by the administrator to be sufficient to carry out the oil spill prevention and administration program, as specified, and a reasonable reserve for contingencies. The amount of the annual assessment shall not exceed four cents ($0.04) per barrel of crude oil or petroleum products.

Since its inception, the amount of the fee as determined by the administrator and collected by the Board has been set at a rate of four cents ($0.04) per barrel. The fee is paid to the Board based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month and deposited into the Oil Spill Prevention and Administration Fund. The Oil Spill Prevention and Administration Fee is collected solely for the following purposes:

- To implement oil spill prevention programs.
- To carry out studies that may lead to improved oil spill prevention and response.
- To finance environmental and economic studies relating to the effects of oil spills.
- To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.
- To respond to an imminent threat of a spill.
- To reimburse the member agencies of the State Interagency Oil Spill Committee and the Board for costs arising from implementation, as specified.

[1] Chief Deputy Director of the Department of Fish and Game.

Proposed Law

This bill would increase the amount of the annual assessment of the Oil Spill Prevention and Administration Fee the administrator is authorized to impose from four cents ($0.04) to five cents ($0.05) per barrel of crude oil or petroleum products.

Background

In 1990, Senate Bill 2040 (Chapter 1248, Keene) added and Senate Bill 7 (Chapter 10, Keene) amended Section 8670.40 of the Government Code to impose the Oil Spill Prevention and Administration Fee. These bills required the Board to collect the fee at an amount determined by the administrator, which is not to exceed four cents ($0.04) per barrel of crude oil or petroleum products.

In 1991, AB 1409 (Chapter 300, Lempert) enacted the Oil Spill Response, Prevention, and Administration Fees Law that prescribed the powers, duties and procedures of the Board for collection, in part, of the Oil Spill Prevention and Administration Fee.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to expand the operations, capacity and readiness of the state's oil spill prevention and response system. According to the author's office, there is evidence that the current fee is not adequate to fund the level of readiness and response necessary to protect the state's waterways.

2. **Key amendments.** Amendments to SB 849 are detailed below.

   - As amended August 19, 2002, this bill incorporated amendments to Section 8670.40 of the Government Code proposed by both this bill and Assembly Bill 2083 (Jackson). These amendments would only become operative if both bills are enacted and become effective on or before January 1, 2003, each bill amends Section 8670.40, and this bill is enacted after AB 2083.

     Assembly Bill 2083 would allow the Oil Spill Prevention and Administration Fee to be used for the purpose of reimbursing the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002, which this bill enacts. These provisions would not impact the Board.

   - As amended August 13, 2002, this bill removed the provisions added August 1, 2002, and provides that the annual assessment may not exceed five cents ($0.05) per barrel of crude oil or petroleum products.

   - As amended August 1, 2002, this bill would prohibit the annual assessment of the Oil Spill Prevention and Administration Fee from exceeding five cents ($0.05) per barrel of crude oil or petroleum products unless the Department of Finance prepares and submits to the Governor and the Legislature a detailed report, as provided.

- As amended June 11, 2002, this bill revised the amount of the annual assessment of the Oil Spill Prevention and Administration Fee that the administrator is authorized to impose, and the effective date the administrator is authorized to impose that amount.

  Furthermore, these amendments revised the date that the administrator would be authorized to adjust the amount of the annual assessment and the basis of that adjustment.

3. **The Board does not anticipate any problems administering the provisions of this bill.** Increasing the amount of the fee, as authorized by the administrator according to the provisions of this bill, would not materially affect the Board's administration of the Oil Spill Prevention and Administration Fee.

COST ESTIMATE

The Board would incur non-absorbable costs, which include advising and answering inquiries from the public, informing Board staff, and increased compliance and audit efforts due to the significant increase in the fee. Beginning January 1, 2003, it is estimated that the Board would incur start-up costs of approximately $61,000 and annual on-going costs of $94,000.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Background. Marine terminal and pipeline operators collect and remit fees to the Board on the 25th day of each month for the number of barrels of petroleum product received during the preceding month. These fees are then deposited in the Oil Spill Prevention and Administration Fund at the State Treasury. Existing law provides that these fees can only be used for oil spill prevention and response activities (e.g., environmental and economic studies, implementation and maintenance of emergency programs, and response to the "imminent threat" of an oil spill), not for the funding of an actual response to an oil spill.

Assumptions. Historical monthly revenue deposited in the Oil Spill Prevention Fund was obtained from the Board Accounting Section for the period, July 1997 through February 2001. An analysis of these data did not suggest any obvious trends over the past three calendar years. Also, there has been little change in the number of feepayers (i.e., varying from 36 to 40) over this same period. Therefore, this estimate assumes that the expected volume of petroleum products subject to this fee during the next several years would be an average of the prior three years.

Methodology. Based on these historical data, the estimated number of barrels of crude oil and other petroleum products subject to the fee would be 246,935,600 for the period July 2002 through December 2002 and 259,586,400 for the first six months of 2003. For Fiscal Year 2002-03, 506,522,000 barrels would be subject to the fee (246,935,600 + 259,586,400 = 506,522,000). Based on an assessment of four cents ($0.04) per barrel, the revenue estimate for the 2002-03 state fiscal year is about $20.26 million (506,522,000 x $0.04 = $20,260,900). If, on the other hand, the

Administrator chooses to impose the maximum allowable fee of $0.05 per barrel, on January 1, 2003, the additional revenue for the 2002-03 FY is estimated at $2.60 million (259,586,400 x ($0.05 - $0.04) = $2,595,900). Total revenue for the 2002-03 FY would then be $22.90 million ($20,260,900 + 2,595,900 = $22,856,800).

If the Administrator applies the $0.05 per fee in 2003, the estimated revenue for the 2003-04 FY (the first complete Fiscal Year under the $0.05 per barrel rate) would be about $25.33 million (506,522,000 x $0.05 = $25,326,100). Therefore, the increase in revenues for the entire 2003-04 FY as a result of the fee increase from $0.04 to $0.05 per barrel would be approximately $5.07 million ($25.33 - $20.26 = $5.07).

Revenue Summary

Assuming that the volume of crude oil and other petroleum products passing through the State's marine waters remains about what it has been over the prior three years, the expected gain in revenue for the 2002-03 FY would be approximately $2.60 million and the increase in the 2003-04 FY would be about $5.07 million.

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.